IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE R.BASANT

WEDNESDAY, THE 23RD MAY 2007 / 2ND JYAISHTA 1929

Crl.MC.No. 594 of 2007()

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CP.41/2002 of JUDL.MAGISTRATE OF FIRST CLASS, HARIPAD

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PETITIONER/ACCUSED:

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SURESH, S/O. SIVADASAN,
KOCHUVEETTIL PUTHUVAL, MAHADEVIKADU MURI,
KARTHIKAPPALLY, ALAPPUZHA DISTRICT.

BY ADV. SRI.S.SANAL KUMAR
SMT.BHAVANA VELAYUDHAN

RESPONDENT/COMPLAINANT:

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STATE OF KERALA,
REPRESENTED BY THE PUBLIC PROSECUTOR,
HIGH COURT OF KERALA, ERNAKULAM.

BY GOVERNMENT PLEADER SRI. GIKKU JACOB

THIS CRIMINAL MISC. CASE HAVING COME UP FOR ADMISSION ON 23/05/2007, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

**R. BASANT, J.**

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Crl.M.C.No. 594 of 2007

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Dated this the 5th day of March, 2007

**O R D E R**

The short grievance of the petitioner is that summon against the third accused in Crime No. 104 of 2000 of Thrikkunnapuzha police station, on the basis of which C.P.No. 41 of 2002 has been registered at the J.F.C.M. - I, Haripad, has been incorrectly and improperly served on him and on account of that incorrectness and impropriety he is now compelled to take part in the proceedings unnecessarily. Accused No.1 was arrested on 9.7.2002. Two of his co-accused had allegedly run away. Those two were named allegedly by the first accused. One Puthenpurayil/Puthenkandathil Suresh is said to be the person who had run away from the scene of occurrence. Final report was filed against Puthenkandathil Suresh S/o. Sivadasan. According to the petitioner, he was not arrested in the course of the trial. He had no knowledge about such crime or proceedings at all.

2. In the committal proceedings, attempt was made to effect service of notice/warrant on the said Suresh S/o. Sivadasan.

Summons was returned unserved stating that such a person is not there. Thereafter, the learned Magistrate directed the police officer to show cause. At that stage a report was filed to show that the said third accused is the petitioner, who is Suresh S/o. Sivadasan of Kochuveettil Puthuval, at a totally different place. After receipt of the report, the learned Magistrate had issued summons to the petitioner and the petitioner was compelled to appear.

3. Call for a report from the learned Magistrate about the circumstance under which the petitioner herein has been arrayed as an accused. How was the address altered and the petitioner was pointed out as the person to be proceeded against. On what material the prosecution had come to such a conclusion. The report shall be filed within 15 days. Call on 19.3.2007l.

Crl.M.A. 991 of 2007

Further proceedings in C.P. 41 of 2002 on the file of J.F.C.M. - I, Harippad shall stand stayed till 19.3.2007.

**(R. BASANT)**
Judge

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